

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BERTRUM JEAN, Individually and as the §
surviving father of BOTHAM SHEM §
JEAN, ALLISON A. JEAN, Individually §
and as the surviving mother of BOTHAM §
SHEM JEAN, and ALLISA E. FINDLEY as §
the Administrator of the Estate of §
BOTHAM SHEM JEAN, §

Plaintiffs

v.

THE CITY OF DALLAS and AMBER §
GUYGER, §

Defendants

CIVIL ACTION NO.

3:18-CV-2862-M

**PLAINTIFFS' UNOPPOSED MOTION TO EXTEND TIME TO FILE OBJECTIONS
TO FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiffs Bertrum Jean and Allison Jean, individually and as the surviving parents of Botham Jean, and Allisa E. Findley, as the Administrator of the Estate of Botham Jean (the "Jean Plaintiffs"), file this unopposed motion for an extension of time to file their written objections to the findings, conclusions, and recommendation of the United States Magistrate Judge (Doc. 33). For the reasons more specifically stated below, the Jean Plaintiffs request that they be granted a thirty-day extension of time from the current, August 26, 2019 deadline, or until September 26, 2019.

I. Introduction

This lawsuit against the City of Dallas and individual Dallas Police Officer Amber Guyger arises out of Guyger's September 6, 2018 fatal shooting of Botham Jean,

who the parties do not dispute was in his own apartment, unarmed and committing no crime at the time. (Doc. 5). On August 12, 2019, the United States Magistrate Judge entered its findings, conclusions, and recommendation that the District Court should grant the City of Dallas' Rule 12(b)(6) motion to dismiss the Jean Plaintiffs' Complaint and dismiss their claims against the City with prejudice. (Doc. 33 at 18). The Magistrate Judge instructed that, if the Jean Plaintiffs wish "to object to any part of these findings, conclusions and recommendation," they "must file specific written objections within 14 days after being served with a copy." (*Id.*) (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)). Accordingly, the deadline for the Jean Plaintiffs to file their objections is currently set for **August 26, 2019**.

Plaintiffs' counsel is scheduled to begin trial on August 20, 2019 in the United States District Court for the Northern District of Texas in a case styled *Sandra Harper, individually and as the surviving parent of James Harper, Tony S. Harper as the Administrator of the Estate of James Harper and K.H., a Minor, By and Through Her Mother and Guardian, Ashlee Whadley v. City of Dallas, Texas, and Brian Rowden*, No. 3:14-CV-2647. That trial has been bifurcated, with the first phase scheduled to continue until September 5, 2019, and the second phase scheduled to begin on September 6, 2019. Plaintiffs' counsel is preparing for that trial now and, as such, respectfully requests that the Plaintiffs be given an additional thirty days to file their objections to the findings, conclusions, and recommendation of the United States Magistrate Judge (Doc. 240). The City of Balch Springs' counsel is unopposed to Plaintiffs' request.

II. Motion to Extend Time

Federal Rule of Civil Procedure 6(b)(1)(A) provides that “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time . . . with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” This motion is being filed before the August 26, 2019 deadline to file Plaintiffs’ objections to the findings, conclusions, and recommendation of the United States Magistrate Judge.

Good cause exists to extend the deadline. First, Plaintiffs’ counsel, Daryl K. Washington, is set to begin trial on August 20, 2019 in a case styled *Sandra Harper, individually and as the surviving parent of James Harper, Tony S. Harper as the Administrator of the Estate of James Harper and K.H., a Minor, By and Through Her Mother and Guardian, Ashlee Whadley v. City of Dallas, Texas, and Brian Rowden*, No. 3:14-CV-2647, in the United States District Court for the Northern District of Texas. Thus, as a practical matter, Plaintiffs’ counsel simply has not had, and likely will not have, sufficient time to devote to filing objections that address the findings, conclusions, and recommendation of the United States Magistrate Judge.

Second, neither the City nor Officer Guyger will suffer any prejudice as a result of this delay and there are no current deadlines that would be adversely affected by this extension. The City has stated that it is unopposed to the Jean Plaintiffs’ motion. Accordingly, the Jean Plaintiffs ask that this Court grant them a thirty-day extension of time to file their objections to the findings, conclusions, and recommendation of the United States Magistrate Judge.

III. Prayer

For these reasons, Plaintiffs respectfully request that this Court grant their motion to extend time by thirty days, extending their deadline to file their second amended complaint to **September 26, 2019**, as well as such other relief to which Plaintiffs may be justly and equitably entitled.

Respectfully submitted,

By: /s/ Daryl K. Washington

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

On August 15, 2019, the undersigned contacted counsel for the City, Amy Messer, regarding the relief being requested herein. Ms. Messer advised that she and her client were *unopposed* to the relief being requested.

/s/ Daryl K. Washington

Daryl K. Washington

CERTIFICATE OF SERVICE

I hereby certify that on **August 17, 2019**, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

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/s/ Daryl K. Washington

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